

## REMARKS

No further claim amendments or changes to the specification are made in the present Response. Accordingly, claims 6-29 are pending in the application. Re-examination and reconsideration of the application, in view of the following remarks, are requested.

As described below, it is respectfully submitted that the Examiner has not raised a prima facie case of obviousness with respect to any of the pending claims. In the Office Action of April 20, 2006, the Examiner has added the newly cited Moon et al. patent (USP 6,211,858) in combinations with other references that were previously cited references. However, the Moon et al. patent does not disclose or suggest the CD display features recited the pending claims and, thus, does not address the previously-identified distinctions between the claims and the other cited references. Accordingly, the Examiner has not raised a prima facie case of obviousness.

More specifically, claims 6-10 and 12-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tune et al. (USP 5,630,710) in view of Goedeke (5,904,708) and Moon et al. (6,211,858). Claim 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Tune et al. (USP 5,630,710) in view of Goedeke (5,904,708) and further in view of Moon et al. (6,211,858) and further in view of Er (USP 6,185,461). Claims 6-29 are further rejected under 35 U.S.C. §103(a) as being unpatentable over Causey, III et al. (USP 6,641,533), in view of and Moon et al. (6,211,858).

Each of these rejections is respectfully traversed. As discussed in the telephone interview with Examiner DeSanto on January 12, 2006, it is submitted that the claims, as amended herein, are patentably distinguished over the references of record.

In particular, independent claim 12, as amended herein, recites a medical system having a medical device MD and a communication device CD as recited in the claim, in which “the CD display is controlled to depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu.”

None of the patent references of record teach or suggest a medical system having a medical device and a communication device (CD) having features as cited above.

While the Tune et al. reference describes a communication device with a display, Tune et al. fail to disclose or suggest a CD display that is controlled to depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu.

In the rejection, the Examiner stated that the Tune et al. reference “fails to disclose wherein the telemetry device uses RF signals and the specific interactions that occur when using a cascading interface. Accordingly, the Examiner cited the Goedeke reference as using RF telemetry. While Goedeke describes RF telemetry, Goedeke does not disclose or suggest a medical system having a CD display that is controlled as recited in claim 12. Accordingly, with respect to the CD display recited in claim 12, the Examiner cited the Moon et al. reference as describing a PDA interface. With respect to the Moon et al. reference, the Examiner stated:

“Moon et al. discloses the working interface of a PDA and how this user interface is user-friendly and can be customize and personalized by using various screens and windows (Figures 3-6, Column 1, lines 56-63 and Column 12-29).”

However, the Examiner’s cite to portions of the Moon et al. patent do not address the distinctions between claim 12 and the Tune et al. and Goedeke references. First, the above-quoted explanation of the Moon et al. patent does not address the language of claim 12 (which recites that the CD display that is controlled to depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu). Whether or not Moon et al. discloses customizing and personalizing a display by using various screens and windows, does not address the claim language that recites that the CD display is controlled to depict a plurality of patient programmable options on at least one first menu and at least one of

the patient programmable options may be enabled and disabled at different times from a second menu. Accordingly, the Examiner's explanation of the Moon et al. reference does not address the specific claim language of claim 12 and, thus, does not raise a prima facie case of obviousness.

Second, the Examiner's cite to portions of the Moon et al. reference do not raise a prima facie case of obviousness. In particular, the Examiner cited Figs. 3-6 of the Moon et al. patent. However, those figures show user-selectable tabs in a tab area 110. Upon a user selecting a tab, a second level of options (referred to by Moon et al. as "dialogs"), shown in Fig. 3 as "New," "Open," "Save," "Save As," "Print," "Printer" and "Exit." While Moon et al. allows a user to select tabs and pull up a display of "dialogs" (options) associated with the selected tabs, Moon et al. do not disclose or suggest any manner of allowing a patient user to enable or disable any of the options, such that a disabled option is not displayed, while other enabled options are displayed. Thus, the tabs and dialog options of Fig. 3 do not address the above-cited language of claim 12. Similar comments apply to the similar tabs and dialog options of Figs. 4, 5 and 6. Accordingly, Figs. 3-6 of the Moon et al. patent do not address the specific claim language of claim 12 and, thus, does not raise a prima facie case of obviousness. Accordingly, the Examiner's reference to Figs. 3-6 of the Moon et al. patent does not address the specific claim language of claim 12 and, thus, does not raise a prima facie case of obviousness.

The Examiner also cited Column 1, lines 56-63 of the Moon et al. patent. That portion of the Moon et al. patent reads as follows:

"It would be desireable to provide a portable telephone with a high-resolution graphics display in order to make better use of the processing power that is available when including a microprocessor within the portable telephone. Such a device could be configured to run computer programs that are comparable to Windows-type software in the form of word processors, spreadsheets, and other communications software such as a web browser."

That portion of the Moon et al. patent refers to a high resolution graphics display and running computer programs, including communications software. However, that portion of the Moon et al. reference provides no disclosure or suggestion of a CD display that is controlled to depict a plurality of patient programmable options on at least one first menu and wherein at least

one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu. Accordingly, the Examiner's citation to column 1, lines 56-63 of the Moon et al. patent does not address the specific claim language of claim 12 and, thus, does not raise a prima facie case of obviousness.

In addition, the Examiner cited "Column 12-29" of the Moon et al. patent. This citation appears to be in error, in that the only text on column 12 of the patent is a portion of claim 21 and all of claim 22, each of which relate to a rotating meter display. There are no columns 13-29 of the Moon et al. patent. Accordingly, the Examiner's citation to columns 12-29 of the Moon et al. patent does not address the specific claim language of claim 12 and, thus, does not raise a prima facie case of obviousness.

Furthermore, the remainder of the Moon et al. patent neither describes nor suggests that invention recited in claim 12. In particular, Moon et al. describe standard menu configurations in a windowing -type environment, wherein a menu may provide user-selectable options. (See, e.g., col. 4, ll. 38-38-44 and col. 5, ll. 2-5.) Moon et al. also describe a rotating meter display, for automatically rotating between various types of meters in a meter display area of the screen. (See, e.g., col. 5, ll. 49-65.) A user may customize the rotating meter display, by adding or removing meters from the rotating display, through a "Meters" customization panel as shown in Fig. 7. Accordingly, while the screen of Fig. 7 allows a user to add or remove meters from the rotating display, the rotating display of meters is not a menu of patient programmable options. The term "menu" necessitates an ability to a select menu item, and is not simply a display of graphics (or a rotating display of meter graphics). The display of each meter in Moon et al.'s rotating meter display is simply a rotating visual graphic, not a menu of patient programmable options. Thus, the menu of Fig. 7 and the rotating display of meters do not depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu.

In addition, the removal of a meter from the rotating display does not disable the meter. The Moon et al. patent defines "meter" as "a 'small' application program that constantly monitors the computer system in the background (or checks the system periodically), and

displays the information graphically.” (Moon et al., col. 5, ll. 49-53.) Moon et al.’s description of removing a meter from the rotating display would not, in itself, result in a disablement of the meter program running in the background. Moon et al. provides no disclosure or suggestion (and would have no reason) to disable any meter program, simply because the user customizes a display to remove the meter graphic from a rotating meter display. To the contrary, Moon et al. teaches to run meter programs in the background so that a user may add that meter graphic to the rotating display, when the user desires to do so, using the screen shown in Fig. 7. Accordingly, Moon et al.’s rotating meter (or meter customization panel) does not depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu.

Therefore, Moon et al. does not address the distinction between claim 12 and the Tune et al. and Goedeke references. Because none of those references teach or suggest a medical system having a CD display that is controlled as recited in claim 12, the Examiner’s suggested combination of Moon et al. with the Tune et al. and Goedeke references would not result in the invention recited in claim 12. As discussed above, the Examiner has not pointed to any portion of the Moon et al. reference that discloses or suggests the medical system of claim 12 (including a CD display that is controlled to depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu). Accordingly, the Examiner has not raised a prima facie case of obviousness. The rejection of claim 12 over Tune et al., in view of Goedeke and Moon et al. is, therefore, respectfully traversed.

Claims 6-10 and 13-28 are dependent (directly or indirectly) on claim 12 and are believed to be distinguished over the Tune et al. Goedeke and Moon et al. references, at least for reasons as discussed above with respect to independent claim 12. The rejection of claims 6-10 and 13-28 is, therefore, respectfully traversed.



Claim 11 is also dependent (indirectly) on claim 12. Claim 11 is believed to be distinguished over the Tune et al. Goedeke and Moon et al. references, at least for reasons as discussed above with respect to independent claim 12. The Er reference does not address the above-noted distinctions over other cited patent references (as Er was cited by the Examiner, only for a disclosure of displaying battery data and a battery longevity estimate graph). The rejection of claim 11 is, therefore, respectfully traversed.

Claim 29 is distinguished from the references of record, at least for reasons similar to those discussed above with respect to claim 12. In particular, claim 29 recites a medical system in which “the CD display is controlled to depict a plurality of patient programmable options on at least one first display screen and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second display screen such that when disabled the at least one patient programmable option is no longer displayed on the at least one first display screen as an option while at least one enabled option is displayed on the at least one first display screen.” Accordingly, the above comments regarding the CD display of claim 12 also apply to claim 29. The rejection of claim 29 is, therefore, respectfully traversed.

Claims 6-29 are also distinguished over the Examiner’s combination of the Causey, III et al. patent and the Moon et al. patent. While Causey, III et al. refer to a medical system having a medical device and a communication device, Causey, III et al. neither describe nor suggest a CD display that is controlled to depict a plurality of patient programmable options on at least one first menu and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu. It is noted that the Office Action includes no citation of any specific portion of the Causey, III et al. reference that discloses or suggests a CD display that is controlled such that at least one patient programmable option may be enabled and disabled at different times such that when disabled, the option is no longer displayed while at least one enabled option is displayed. Indeed, Causey, III et al. contains no such disclosure or suggestion.

Accordingly, the Examiner cited the Moon et al. patent in combination with the Causey, III, et al. reference. However, as described above, Moon et al. does not address the CD display

features described above and, thus, does not address the above-noted distinction over the Causey III, et al. reference. The Examiner's suggestion to combine Moon et al. with Causey III, et al., thus, would not result in the invention recited in independent claims 12 or 29 (and, thus, any of dependent claims 6-11 and 13-28). Also, for the same reasons discussed above, the Examiner has not raised a prima facie case of obviousness. The rejection of claims 6-29 over Causey III, et al. in view of Moon et al., is, therefore, respectfully traversed.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

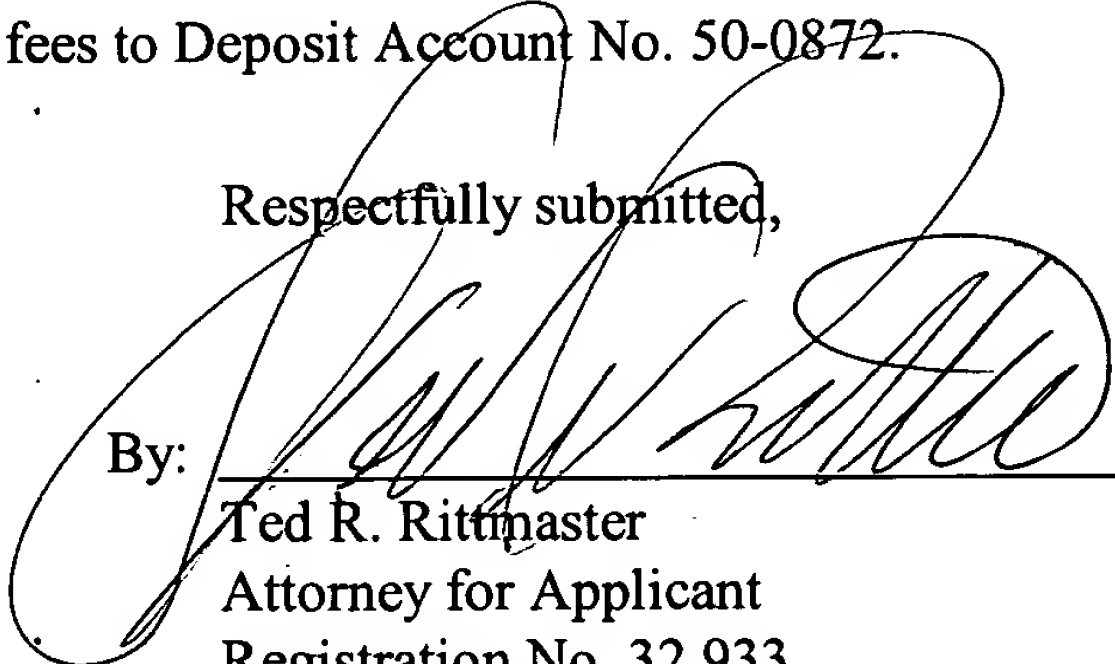
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date: July 19, 2006  
FOLEY & LARDNER LLP  
Customer Number: 23392  
Telephone: (310) 975-7963  
Facsimile: (310) 557-8475

By:

  
Ted R. Rittmaster  
Attorney for Applicant  
Registration No. 32,933